

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**STANLEY MARVIN CAMPBELL,
Trustee in Bankruptcy for ESA
ENVIRONMENTAL SPECIALISTS,
INC.,**

Plaintiff,

Vs.

NATHAN M. BENDER,

Defendant,

Vs.

**PROSPECT CAPITAL CORPORATION;
and STANLEY MARVIN CAMPBELL,**

Counterclaim Defendants.

**PROSPECT CAPITAL CORPORATION,
Individually and derivatively on behalf of
ESA ENVIRONMENTAL SPECIALISTS,
INC.,**

Plaintiff,

Vs.

**NATHAN M. BENDER; DAVID C.
EPPLING; JACOB COLE; JOHN M.
MITCHELL; SHELTON SMITH;
SANDRA DEE COLE; MICHAEL
ANTHONY HABOWSKI; DENNIS
M. MOLESEVICH; TRACEY HAWLEY;
CHERRY BEKAERT & HOLLAND LLP;
ELLIOT AND WARREN; ADKISSON,
SHERBERT & ASSOCIATES; HOULIHAN
SMITH; CHESTER J. BANULL; and
SUNTRUST BANKS, INC.,**

Defendants.

3:09cv465

3:09cv546

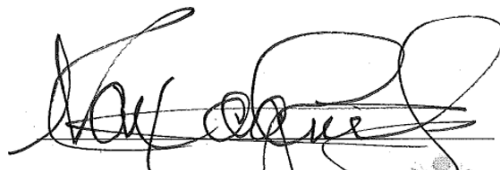
THESE MATTERS are before the court in 3:09cv465 on counterclaim defendant Prospect Capital Corporation's Motion to Dismiss (#6) and in 3:09cv546 on defendant Cherry Bekaert & Holland LLP's Motion to Dismiss (#52) and defendants Shelton Smith's, Sandra Dee Cole's, Dennis M. Molesevich's, Tracey Hawley's, Cherry Bekaert & Holland LLP's, Elliot & Warren's, Adkisson, Sherbert & Associates's, Houlihan Smith's, Nathan M. Bender's, David C. Eppling's, Jacob Cole's, and John M. Mitchell's Motion to Dismiss (#56). These motions are ripe for disposition.

While the court has not yet consolidated these matters for pretrial proceedings or trial, the court will make inquiry at the upcoming hearing as to why consolidation is not appropriate. Inasmuch as it appears that these matters involve similar issues and similar parties, the court will hear the pending motions to dismiss at the same hearing.

ORDER

IT IS, THEREFORE, ORDERED that counterclaim defendant Prospect Capital Corporation's Motion to Dismiss (#6) is **CALENDARED** for hearing, and the Clerk of this Court is respectfully instructed to calendar this matter for hearing during the July 20, 2011, civil motions day.

Signed: May 25, 2011



Max O. Cogburn Jr.
United States District Judge